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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,606	03/19/2004	Peter Cagliari	930024-2008	9555

20999 7590 04/26/2007  
FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER
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MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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**Office Action Summary**

Application No.

10/804,606

Applicant(s)

CAGLIARI ET AL.

Examiner

Jila M. Mohandesi

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on RCE 02/13/2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 13, 2007 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepage et al. (US 6,457,265) in view of Sallet et al. (US 6,938,362). Lepage '265 discloses a sports boot for gliding boards such as snowboard or skates,

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comprising a first part in a first material (rigid core 1 & 2, made from polyurethane with a shore hardness of 64) and a second part superposed on said first part and a second material (supple parts 11 & 12 made of polyurethane with shore hardness of 54) covering at least partially the rigid core, and reinforcement means (3, 4, 5, 6, 7, 8, 9, & 10), wherein the reinforcement means are at least partly formed by at least one frame in synthetic material internally reinforced with mineral or synthetic fibers positioned at least partially between said parts (see column 3, lines 58-67 and column 4, lines 1-5). See Figures 1-3 embodiments. Lepage does not appear to disclose the mineral or synthetic fibers being embedded in a matrix. Sallet discloses a reinforcement for a boot, wherein one of the layers of said sandwich structure is made of a composite material based on woven or nonwoven fibers included in a matrix wherein: the fibers comprise a member selected from the group consisting of the following materials: carbon fibers, glass fibers, metallic fibers, natural and synthetic textile fibers, and mixtures of such materials; the matrix comprises a member selected from the group consisting of the following materials: epoxy, polyester, and phenolic resins; thermoplastics, including polyamides, polyurethanes, polyolefins, and mixtures of such materials; and the core of the sandwich structure comprises a member selected from the group consisting of the following materials: a synthetic foam, wood and a honeycomb structure, to improve the torsional stiffness, efficiency, durability, lightness, cost, foot protection, and industrial workability. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the reinforcement means of Lepage from a

thermoplastic matrix as taught by Sallet to improve the torsional stiffness, efficiency, durability, lightness, cost, foot protection, and industrial workability.

With respect to claim 2, see column 2, lines 63-64.

With respect to claims 3-6, see column 3, lines 58-67 and column 4, lines 1-5.

With respect to claim 13, note frame/supports (6 & 9), which extends above the heel and obliquely toward the bottom and the front of each side of the rigid core. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lepage-Sallet as applied to claim 1 above, and further in view of Basso (US 2001/0018805). Lepage-Sallet as described above discloses all the limitations of the claims except for the rigid core comprising a frame (17) extending transversely under the rigid core, between heel and toe, and obliquely rearward, on each side of the rigid core. Basso discloses a boot with a frame extending transversely under the core, between heel and toe, and obliquely rearward, on each side of the core, which will provide high forward bending inertia, and low lateral bending inertia desirable in snowboarding boots. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a frame to the sports boot of Lepage '265 as taught by Basso to provide high forward bending inertia, and low lateral bending inertia.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-13 and 15 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
April 20, 2007